(78)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Miscellaneous Appeal (C) No. 758 of 2007

APPELLANTS CLAIMANTS

1. Manohar Rao Gaikwad, aged about 50 years, S/o. late Madhav Rao Gaikwad.

2. Smt. Pushplata Gaikwad, aged about 45 years, W/o. Shri Manohar Rao Gaikwad, R/o. Kududand, P.S. Civil Lines, P.O. & Distt. Bilaspur.

VERSUS

RESPONDENTS : NON-APPLICANTS

1. Rajendra Sahu, S/o Baliram Sahu, R/o Kohoka, Bajrangpara, P.O. Bhilai, Distt. Durg (C.G.) Driver of the Bus No. C.G. - 07-E/0342.

2. M/s Durg Bus Service through : Manager G.E. Road, P.O. & Distt. Durg (C.G.)

3. The New India Insurance Co. Ltd. Durg through : Branch Officer, Branch Manager, Rajiv Plaza, Bus Stand, P.O. & Distt. Bilaspur (C.G.)

Miscellaneous Appeal under Section 173 of Motor Vehicle Act, 1988

Present : Shri B.R. Ghosh with Smt. Meera Jaiswal counsel for the appellants.

ORAL ORDER
(Passed on 09th July, 2007)

The following oral order of the Court was passed by

Dilip Raosaheb Deshmukh, J.

Heard.

The following points were urged by learned counsel for the appellants in this appeal for enhancement of compensation in a case of accidental death of one Ku. Varsha Gaikwad, aged about 28 years:-

(a) That the multiplier 13, applied by the Tribunal was incorrect.

(b) That the monthly income assessed by the learned Tribunal is too low.

Having considered the contentions raised by learned counsel for the appellants we find that the age of the appellants / claimants who are father and mother of the deceased is 50 years and 40 years respectively. Therefore, average age would come approximately 48 years and, therefore, learned Tribunal correctly applied multiplier of 13. As regards, monthly income is concerned; it is not disputed by learned counsel for the appellants that no documentary evidence is adduced before the Tribunal relating to income of the deceased. Appellant No. 1 father of the deceased in his evidence deposed that the deceased would have earned approximately between Rs.4,000/- to 5,000/- from computer work every month. The Tribunal has accepted this statement and assessed loss of dependency taking into consideration income of the deceased as Rs.4,000/- per month. It is also to be noted that the deceased was an unmarried girl and would have soon got married and that both the claimants i.e. parents were earning members of the family.

In the facts and circumstances, we are of the considered opinion that there is no merit in the contention advanced by the learned counsel for the appellant and compensation of Rs.2,64,000/- awarded by the Tribunal is just and reasonable. Accordingly, there is no merit in this appeal which is dismissed at the stage of admission itself.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Acting Chief Justice

padma